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10 Counsel for Plaintiff, Karl T. Anderson, Chapter 7 Trustee

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13 **UNITED STATES BANKRUPTCY COURT**
14
15 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**

10 In re	Case No.: 6:17-bk-19336-SY
11 Pandora Hospice Care, Inc.,	Chapter 7
12	Debtor.
13	Adv. Proc. No. 6:18-ap-01193-SY
14	
15 Karl T. Anderson, exclusively in his	PLAINTIFF/CHAPTER 7 TRUSTEE, KARL T.
16 capacity as Chapter 7 Trustee,	ANDERSON'S TRIAL BRIEF RE: TURNOVER
17	OF THE ESTATE'S ACCOUNTS RECEIVABLE
18	OWED BY DEFENDANT, NICHOLAS SILAO
19 Nicholas Silao,	Plaintiff:
20	Date: January 18, 2023
21	Time: 10:00 a.m.
22	Ctrm: 302, Third Floor
23	US Bankruptcy Court
24	3420 Twelfth Street
25	Riverside, CA 92501
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1 **TO THE HONORABLE SCOTT H. YUN, U.S. BANKRUPTCY JUDGE; DEFENDANT**
2 **NICHOLAS SILAO AND HIS COUNSEL OF RECORD; AND THE OFFICE OF THE UNITED**
3 **STATES TRUSTEE – RIVERSIDE DIVISION:**

4 Plaintiff/Chapter 7 Trustee, Karl T. Anderson submits the following *Trial Brief* for the
5 above-captioned Trial. Specifically, as detailed herein, Plaintiff respectfully requests that the
6 Court enter judgment against the Defendant, Nicholas Silao and in favor of the Chapter 7 Trustee
7 on behalf of the Debtor's bankruptcy estate in the amount of \$137,000.00, plus pre-judgment
8 interest at the rate of 7% per annum since January 1, 2017 until entry of judgment. As detailed
9 herein and as will be shown during the upcoming trial, the Corporate Debtor's 2016 Federal
10 Income Tax Return showed that Defendant Nicholas Silao owed the Corporate Debtor no less
11 than \$137,000 as of the end of 2016 and such amounts remained owing to the Corporate
12 Debtor's bankruptcy Petition Date on November 8, 2017. However, this happens essentially
13 every time a bankruptcy trustee seeks to enforce a debtor's related party to statements made
14 under oath on a federal income tax return, the debtor's insiders always concoct a basis to push
15 an "amended federal income tax return," that suddenly and inexplicably includes favorable
16 changes to debtor's prior tax return representations. That is the scenario Defendant Nicholas
17 Silao is attempting to convince the Court in this case.

18 I.

19 **STATEMENT OF FACTS OF THE CASE**

20 The Corporate Debtor, Pandora Hospice Care, Inc. ("Debtor" or "Pandora") was in the
21 business of providing end of life care for residents in the Inland Empire. The Chapter 7 Trustee
22 is informed and believes that the Corporate Debtor's principals were the following:

23 i) Defendant, Nicholas Silao;
24 ii) Defendant's brother, Michael Silao; and
25 iii) Defendant's other brother, Ray Silao.

26 The Chapter 7 Trustee also is informed and believes that the Defendant and his brothers
27 are either medical doctors and/or otherwise employed in the healthcare industry, hence the
28 connection to the Corporate Debtor's business of a hospice end of life treatment business.

1 The Debtor's Chapter 7 bankruptcy case was filed on November 8, 2017 in the above-
2 captioned Bankruptcy Court. After various continued 341(a) hearings and review of financial
3 documents on or about October 2, 2018, Plaintiff/Trustee commenced the above-captioned
4 Adversary Proceeding, along with the following additional Adversary Proceedings:

<u>Adversary Proceedings</u>	<u>Outcome</u>
<i>Anderson v. Michael Silao, Adv. Proc.No.: 6:18-ap-01192-SY</i>	Claim was compromised and Defendant, Michael Silao paid the Debtor's estate \$6,165;
<i>Anderson v. Ray Silao Adv. Proc.No.: 6:18-ap-01192-SY</i>	Claim was compromised and Defendant Ray Silao paid the Debtor's estate \$7,920;
<i>Anderson v. Albright Hospice of Riverside, Inc.; Adv. Proc.No.: 6:18-ap-01192-SY</i>	Default judgment entered in favor of Chapter 7 Trustee for \$42,612; and
<i>Anderson v. Albright Hospice of San Bernardino, Inc. Adv. Proc.No.: 6:18-ap-01192-SY</i>	Default judgment entered in favor of Chapter 7 Trustee for \$16,847.

13 Consequently, the above-captioned Adversary Proceeding is the last of the matters to be
14 resolved for the Debtor's bankruptcy estate.

15 **II.**

16 **ADMISSIONS AND STIPULATIONS**

17 The Parties have not agreed on any admissions or stipulations other than the Court's
18 jurisdiction to resolve this Adversary Proceeding.

19 **III.**

20 **PROCEDURAL HISTORY**

21 The Plaintiff/Chapter 7 Trustee commenced this Adversary Proceeding on October 2,
22 2018. The Defendant filed his Answer on October 31, 2018. As the Court is well aware,
23 essentially from July 2019 until December 2021, the Parties and the Court were forced to resolve
24 the issue of the Defendant's purported Deemed Admitted Admissions as a result of the
25 Defendant's failure to respond to Plaintiff's unresponded to discovery. The Request for
26 Admissions issue was resolved in early 2022 and the Court conducted the Pre-Trial Conference
27 on May 26, 2022. Soon thereafter, the Parties filed their *Joint Pre-Trial Stipulation*.

IV.

SUMMARY OF POINTS OF LAW

Section 542(b) of the Bankruptcy Code provides in part:

(b) Except as provided in subsection (c) or (d) of this section, an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of the trustee, except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor. (Emphasis added.)

8 See generally, *Shapiro v. Henson*, 739, F.3d 1198 (9th Cir. 2014) (Ninth Circuit Court of
9 Appeals confirmed a trustee could seek turnover of a filing date bank balance without regard to
10 outstanding checks); and *Weinman v. Graves (In re Graves)*, 609 F.3d 1153 (10th Cir. 2010)
11 (Tenth Circuit Court of Appeals confirmed turnover parameters under Section 547(b) of the
12 Bankruptcy Code).

Y.

DISPUTED ISSUES

15 The critical question the Court will need to resolve is whether to accept as credible the
16 Corporate Debtor's initially submitted 2016 Federal Income Tax Return or whether the Court will
17 adopt as credible the Debtor's post-petition Amended 2016 Federal Income Tax Return, that
18 coincidentally amends that portion of the Corporate Debtor's Tax Return that previously showed
19 collectively the Defendant and his brothers owed the Corporate Debtor more than \$160,000.
20 The Defendant has not explained how this self-serving amended 2016 Federal Corporate
21 Income Tax Return is credible, including the fact that Defendant Nicholas Silao signed and/or
22 was the proposed signee for the initially submitted 2016 Federal Income Tax Return, along with
23 the Post-Petition Amended Federal Income Tax Return.

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26 | *III*

27 | *III*

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1 VI.
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3 **SUMMARY**
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5 The Plaintiff/Chapter 7 Trustee respectfully requests that the Court enter judgment in
6 favor of Plaintiff/Chapter 7 Trustee in the principal amount of \$137,000, along with pre-judgment
7 statutory interest at 7% per annum from January 1, 2017 until January 18, 2023 in the total
8 amount of \$57,540 for a total judgment of \$194,540.
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10 **DATED: January 11, 2023**

11 **POLIS & ASSOCIATES, APLC**

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10 By: /s/ Thomas J. Polis
11 Counsel for Plaintiff/Chapter 7 Trustee,
12 Karl T. Anderson

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

POLIS & ASSOCIATES
A Professional Law Corporation
19800 MacArthur Boulevard, Suite 1000
Irvine, California 92612-2433

A true and correct copy of the foregoing document described **PLAINTIFF/CHAPTER 7 TRUSTEE, KARL T. ANDERSON'S TRIAL BRIEF RE: TURNOVER OF THE ESTATE'S ACCOUNTS RECEIVABLE OWED BY DEFENDANT, NICHOLAS SILAO** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **January 11, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Karl T Anderson (TR) vinland@live.com, kanderson@ecf.axiosfs.com
Sanaz Sarah Bereliani berelianilaw@gmail.com, chris@berelianilaw.com; r48595@notify.bestcase.com
Baruch C Cohen bcc@BaruchCohenEsq.com, paralegal@baruchcohenesq.com
Thomas J Polis tom@polis-law.com, paralegal@polis-law.com; r59042@notify.bestcase.com
United States Trustee (RS) ustpregion16.rs.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY U.S. MAIL:

On **, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **January 11, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Via Federal Express

Hon. Scott Yun, US Bankruptcy Court, 3420 Twelfth Street, Suite 345, Riverside, CA 92501

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

January 11, 2023

Date

Cristina L. Allen

Type Name

/s/ Cristina L. Allen

Signature